

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MAINE

3  
4 UNITED STATES OF AMERICA,

CRIMINAL ACTION

5 Plaintiff

Docket No: 2:19-122-JDL-2  
2:21-163-JDL

6 -versus-

7 BERNARD GADSON,

8 Defendant  
9

10 Transcript of Proceedings

11 Pursuant to notice, the above-entitled matter came on for  
12 **Sentencing** held before **THE HONORABLE JON D. LEVY**, United  
13 States District Court Judge, in the United States District  
14 Court, Edward T. Gignoux Courthouse, 156 Federal Street,  
Portland, Maine, on the 26th day of May 2022 at 10:22 a.m. as  
follows:

15  
16 Appearances:

17 For the Government: Sheila W. Sawyer, Esquire  
Assistant United States Attorney

18 For the Defendant: Luke S. Rioux, Esquire

19 Also Present: Heather Belanger, U.S. Probation

20 Lori D. Dunbar, RMR, CRR  
21 Official Court Reporter

22 (Prepared from manual stenography and  
23 computer aided transcription)  
24  
25

1 (Open court. Defendant present.)

2 THE COURT: Good morning. We are convening a  
3 sentencing hearing in the matter of United States versus  
4 Bernard Gadson, Docket 19-CR-122 and 21-CR-163. Counsel, will  
5 you please enter your appearances for the record?

6 MS. SAWYER: Good morning, Your Honor, Sheila Sawyer  
7 for the United States.

8 THE COURT: Good morning.

9 MR. RIOUX: Your Honor, Luke Rioux for Mr. Gadson.

10 THE COURT: Thank you, good morning. The record  
11 will reflect that Probation Officer Heather Belanger is with  
12 us as well and of course Mr. Gadson is present.

13 Attorney Sawyer, has the Government provided notice to  
14 any victims of the offense entitled to notice under federal  
15 law?

16 MS. SAWYER: It has, Your Honor.

17 THE COURT: Thank you.

18 Mr. Gadson, if you'd stand, please. This is your  
19 sentencing hearing, and so the overall purpose of today's  
20 hearing is for me to sentence you based upon your guilty pleas  
21 and convictions. I'm going to hear from the attorneys this  
22 morning, I'll hear from you as well if you wish to speak,  
23 although you're not required to, and I'll hear from anyone  
24 else that's presented to speak today.

25 I'm going to begin by asking you and Attorney Rioux a

1 series of questions. The purpose of my questions are, first,  
2 I want to make sure that you've read and understand and  
3 discussed with your lawyer the revised presentence report that  
4 was prepared by Ms. Belanger, the probation officer in this  
5 case. Secondly, I want to be sure there's nothing that  
6 interferes with your ability to understand what is taking  
7 place today during the sentencing. And then, third, overall I  
8 want to make sure that you understand the sentence that I  
9 decide to impose and the reasons for it.

10 Now, if you don't understand a question that I ask you,  
11 don't try to answer it; just tell me you don't understand and  
12 I'll rephrase. Do you understand?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And if you wish to speak with Mr. Rioux  
15 before responding to a question, tell me that and I'll make  
16 arrangements for that to happen. Do you understand that as  
17 well?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Mr. Gadson, are you currently taking any  
20 medications?

21 THE DEFENDANT: I'm not.

22 THE COURT: Have you had any other types of drugs or  
23 alcohol in the past 24 hours?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Are you thinking clearly this morning?

1 THE DEFENDANT: Yes.

2 THE COURT: Is there anything at all that could  
3 interfere with your ability to understand what's taking place  
4 today?

5 THE DEFENDANT: No.

6 THE COURT: Do you authorize Attorney Rioux to act  
7 and speak on your behalf today?

8 THE DEFENDANT: I do.

9 THE COURT: Attorney Rioux, I take it that you have  
10 met with your client and discussed with him the revised  
11 presentence report in this case?

12 MR. RIOUX: I have, yes, Your Honor.

13 THE COURT: You had sufficient time for that?

14 MR. RIOUX: Yes.

15 THE COURT: Are you satisfied that he understands  
16 it?

17 MR. RIOUX: I am.

18 THE COURT: Mr. Gadson, is that correct, you've read  
19 the report?

20 THE DEFENDANT: Yes, I have.

21 THE COURT: You've had sufficient time to discuss it  
22 with your lawyer?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: And do you feel that you understand it?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: Now, Attorney Rioux, you recently  
2 provided the Court a restatement of the objections that your  
3 client has to the revised presentence report. This is ECF  
4 No. 212. It lists 11 specific areas of objection. And am I  
5 correct in understanding that this is -- that these are,  
6 rather, in fact the objections that you and Mr. Gadson have --  
7 or Mr. Gadson has, rather, to the information contained in the  
8 report?

9 MR. RIOUX: Yes, Your Honor, that is correct.

10 THE COURT: All right, thank you. You can be  
11 seated.

12 We, I think this is apparent, have a number of issues to  
13 work through this morning before we get to the actual --  
14 consideration of the actual sentence in this case, so let's  
15 turn to first the loss amount. Now, in this case the -- it  
16 appears to me that there's agreement between the Government  
17 and the defendant on a number of adjustments regarding the  
18 loss amount. The first is that the intended loss for  
19 December.

20 26, 2018, at the UMass FCU should be \$9,500, not \$19,000, but  
21 that the actual loss -- restitution loss in that row is  
22 correct at \$9,500. Let me pause there. Both sides in  
23 agreement that that adjustment needs to be made?

24 MS. SAWYER: Yes, Your Honor.

25 MR. RIOUX: Yes, thank you, Your Honor.

1 THE COURT: Secondly, the January 2nd, 2019,  
2 transaction for \$8,000 at the Granite State FCU in New  
3 Hampshire should be deleted, which is the first row on Page 9  
4 of the report. Is that also, Attorney Sawyer, the  
5 Government's position?

6 MS. SAWYER: Yes, Your Honor.

7 THE COURT: And Attorney Rioux?

8 MR. RIOUX: We agree.

9 THE COURT: These deletions would cause an intended  
10 loss of \$258,267 in the total line just above Paragraph 17 and  
11 the restitution loss figure is not impacted. Let me continue.

12 In addition, as your sentencing memos reflect, it seems  
13 to me there's agreement to remove the loss associated with Kay  
14 Jewelers and Best Buy located on the first row and the  
15 second-to-last row of the first financial chart after  
16 Paragraph 16. So those will be removed. The total intended  
17 loss in the financial chart would thus be \$249,557. That is  
18 taking into account all the changes that we've discussed up to  
19 this point. So the total loss in the financial chart is  
20 \$249,557.

21 Attorney Sawyer, is the Government in agreement?

22 MS. SAWYER: Yes, Your Honor, that seems right.

23 THE COURT: Attorney Rioux?

24 MR. RIOUX: Yes, based on those changes I agree.

25 THE COURT: Okay. These changes do not alter the

1       loss enhancement in Paragraph 30. Attorney Sawyer, is the  
2       Government in agreement with what I just said?

3               MS. SAWYER: Yes, Your Honor, because the -- when  
4       you consider the loss associated with the fraudulent loans in  
5       Minnesota and add that amount to the 249,000 you remain well  
6       above the 250,000 threshold.

7               THE COURT: Correct. Attorney Rioux?

8               MR. RIOUX: I agree that, provided that additional  
9       allegation is part of the relevant conduct, it would not  
10      change the Paragraph 30 adjustment.

11              THE COURT: Okay. And so for purposes of the  
12      specific offense characteristics, it's that 12 levels have  
13      been added, and I want both sides to be clear with me whether  
14      there's any dispute about that. Attorney Sawyer?

15              MS. SAWYER: None, Your Honor.

16              THE COURT: Attorney Rioux?

17              MR. RIOUX: Based on those alterations there's no  
18      dispute about that. Of course, we've objected to other  
19      conduct.

20              THE COURT: We're going to talk about other conduct,  
21      but I'm specifically asking about Line 30, the 12-point  
22      enhancement.

23              MR. RIOUX: Yes, we're in agreement, thank you.

24              THE COURT: Thank you. Okay. All right, it appears  
25      that I've come into -- oh, here it is, looking for this piece

1 of paper which I just found.

2 I now want to turn to the question of the defendant's  
3 objections otherwise, and these pertain to his role and the  
4 role enhancement that he should receive under the sentencing  
5 guidelines. In Mr. Gadson's sentencing memorandum, and I'm  
6 specifically referring to Pages 4 to 5 at this point, he -- he  
7 argues that he's only liable for the intended loss amount,  
8 which we've now just adjusted, but he's only liable for that  
9 amount as adjusted if he was in charge of the operation and  
10 responsible for the actions of Benson and Novikov, the two  
11 individuals who were directly involved in the bulk of the  
12 fraud attempts. And as I understand the argument is that this  
13 is not shown, that he was in charge, because it's not been  
14 shown that Mr. Gadson is the person known as Gio. And so the  
15 argument as I understand it, Attorney Rioux, your argument is  
16 that if Gio is not Mr. Gadson then there -- the conclusions  
17 are wrong and that this is at the heart of your objections, at  
18 the center of your objection, to many of the -- much of the  
19 information contained in the report that relates to his role  
20 and the proper level of role enhancement under the sentencing  
21 commission guidelines.

22 Have I just accurately stated what your position is?

23 MR. RIOUX: Yes, Your Honor, thank you.

24 THE COURT: All right. So before I hear from the  
25 Government, which has the burden of production on this issue,



1 I want to be clear about what the issue is. As I understand  
2 the issue, it is if I find that the Government fails to  
3 establish that Mr. Gadson is Gio, then the report's  
4 conclusions regarding Mr. Gadson's role are incorrect or  
5 unproven; and on the other hand, if I find that the Government  
6 establishes that Mr. Gadson is Gio then the report's  
7 conclusions regarding Mr. Gadson's role are correct. Is that  
8 a fair distillation of what's in dispute here, Attorney  
9 Sawyer?

10 MS. SAWYER: That's how I interpreted the  
11 defendant's position.

12 THE COURT: All right. Attorney Rioux, is that a  
13 fair distillation of your position?

14 MR. RIOUX: Yes, I think that's generally correct,  
15 Your Honor, thank you.

16 THE COURT: Okay. In addition, a threshold question  
17 under the guidelines, specifically Section 6A1.3(a), is  
18 whether a sentencing factor here, Mr. Gadson's role, is,  
19 quote, reasonably in dispute. And the Government has cited to  
20 United States versus Cirilo, 2015 First Circuit decision, for  
21 the following proposition: Where a defendant's objections to  
22 a presentence investigation report are wholly conclusory and  
23 unsupported by countervailing evidence, the sentencing court  
24 is entitled to rely on the facts set forth in the presentence  
25 investigation report.

1           Now, let me first ask, starting with you, Attorney  
2       Sawyer, you cited the case so I assume you agree that that's a  
3       correct statement of the current law?

4           MS. SAWYER:   Indeed, Your Honor.

5           THE COURT:   And, Attorney Rioux, is that a correct  
6       statement of the current law?

7           MR. RIOUX:   Yes, Your Honor, I believe that's an  
8       accurate statement from that case.

9           THE COURT:   Okay.   And so, Attorney Rioux, the next  
10      question to you is do you have countervailing evidence that  
11      you intend to present in support of your assertion that Mr.  
12      Gadson is not Gio?

13          MR. RIOUX:   Your Honor, aside from challenging the  
14      evidence that the Government has presented by way of argument  
15      and perhaps under proffer today, that would be our  
16      presentation.

17          THE COURT:   Well, I want to pin you down on this,  
18      because I don't want to conduct a hearing that's not needed.  
19      Do you have, for purposes of the excerpt I just read from  
20      Cirilo, some type of countervailing evidence that puts into  
21      question, then, the facts set forth in the presentence  
22      investigation report?

23          MR. RIOUX:   Well, Your Honor, I presented -- I have  
24      an exhibit that I presented to the Court today regarding the  
25      address in Dorchester.   I don't have any other witness to call

1 per se, and I don't have any other -- other evidence to  
2 present besides argument, proffer, and what's been presented  
3 in the memos.

4 THE COURT: And so the exhibits you're referring to  
5 have been marked, as I understand, Defendant's Exhibits 1  
6 through 6, I believe it is?

7 MR. RIOUX: Yes, Your Honor.

8 THE COURT: And so this is the -- this will be the  
9 countervailing evidence?

10 MR. RIOUX: Well, particularly, Your Honor, I've  
11 presented Exhibits 3 and 4. There was an assertion from  
12 Ms. Novikov that she had visited Gio's home, which was a  
13 mansion in Dorchester or Mattapan, and the only Dorchester  
14 location that Mr. Gadson had been associated with was this  
15 Elba Terrace location, which I have presented some  
16 documentation of here to support the assertion that this is  
17 not a mansion in Dorchester or Mattapan.

18 THE COURT: Very good. All right, thank you.

19 Attorney Sawyer, you have also presented to the Court in  
20 advance two marked exhibits, Government's 1 and 2. And will  
21 this be the Government's evidence today on this point?

22 MS. SAWYER: Yes, Your Honor. I had prepared  
23 additional exhibits implicating Gadson in the fraud scheme. I  
24 do not believe it's necessary to go beyond what we've already  
25 presented, particularly in light of the admissions that the

1 defendant himself made at his own plea hearing --

2 THE COURT: Okay.

3 MS. SAWYER: -- with respect to his role in the  
4 offense.

5 THE COURT: All right. And so, since all the  
6 evidence is documentary evidence, it seems to me that it's  
7 appropriate, counsel, for you to go ahead and argue your  
8 positions. You can refer to the exhibits. Further -- of  
9 course, I've read your memos, but I'm interested to hear from  
10 you this morning in terms of any additional argument you might  
11 make in connection with these exhibits on the disputed point,  
12 which is whether or not there's sufficient proof for me to  
13 conclude that Mr. Gadson is Gio as concluded in the  
14 presentence investigation report. Attorney Sawyer?

15 MS. SAWYER: Certainly, Your Honor. As I argued in  
16 the sentencing memorandum, I think the evidence is clear that  
17 the defendant is the person Roza Novikov characterized as the,  
18 quote, essential mastermind of this scheme. And I think that  
19 the information that Ms. Novikov provided is reliable and  
20 corroborated by a number of other pieces of evidence, critical  
21 pieces of evidence.

22 First, as I noted in my sentencing memorandum, the  
23 defendant is charged in the -- in this case with conspiring  
24 with Rahshjeem Benson, his cousin, to commit bank fraud.  
25 Mr. Benson pled guilty in this courthouse and acknowledged the

1 defendant's role as his co-conspirator. He did not dispute  
2 any of the information set forth in the prosecution version.  
3 He admitted that it was all true to the best of his knowledge.

4 Fast forward to the defendant's own Rule 11 hearing, in  
5 the prosecution version that the Government --

6 THE COURT: Attorney Sawyer, if I could interrupt  
7 here. I understand that argument but I also understand that  
8 I'm likely going to hear from Attorney Rioux that, although  
9 Mr. Gadson admitted his role and acknowledged the facts set  
10 forth in the prosecution version, he -- he defines -- he  
11 defines the scope of the conspiracy quite differently or his  
12 involvement, rather, as only related to three of the bank  
13 frauds and not -- not the rest of the activity. So what is it  
14 about the Benson -- what is it about the Benson guilty plea  
15 and Mr. Gadson's own guilty pleas and acknowledgments of the  
16 prosecution versions which supports the conclusion of whether  
17 or not he is Gio?

18 MS. SAWYER: Well, first, Your Honor, if you look at  
19 the defendant's sentencing memorandum, Page 4, there are only  
20 three transactions that he has claimed to have, quote, some  
21 level of involvement in. He's even cagey about what that  
22 involvement is, but these are the three transactions he's  
23 owned up to.

24 The first is a transaction involving Roza Novikov in  
25 Maine in January of 2019. That is one of the transactions in

1       which the defendant was caught texting her a copy of a lease  
2       agreement, a pay stub, really caught dead in the water on that  
3       one, so he's admitted to that one.

4               These other two transactions, Your Honor, are in March  
5       of 2019 in New Bedford, Massachusetts, and are transactions in  
6       which the defendant himself applied for loans in the name of  
7       an individual named Joshua McDermott. This -- these  
8       transactions are relevant conduct, but they are not the core  
9       of the conspiracy between Benson, Novikov, and Gadson. In  
10      fact, Novikov and Benson had already been arrested in Kittery  
11      in connection with the Maine attempts.

12             So in his plea agreement and in the pros version, when  
13      the defendant agrees that he engaged in a scheme to defraud  
14      banks and credit unions throughout New England and the various  
15      roles that he played in doing so, and acknowledged in the pros  
16      version that Novikov told Agent Pawson she had applied for  
17      several loans throughout New England over the course of  
18      several weeks and that when they were successful she received  
19      a portion of the proceeds, plural, and provided the rest to  
20      Benson, who in turn provided a share to Gadson. Scheme,  
21      loans, throughout New England.

22             Your Honor, I think that goes beyond the one Kittery  
23      transaction that he's willing to accept responsibility for,  
24      and it corroborates the information and is consistent with the  
25      information that Ms. Novikov provided when she was arrested.

1 She did not know the defendant's real name. She knew him by  
2 nicknames, but she also provided enough information for the  
3 case agent to figure out that BG3 or Gio was in fact Bernard  
4 Gadson. She said they were cousins; in fact, they're cousins.  
5 She said he resided in Dorchester, Massachusetts. What did  
6 the defendant do in his sentencing memo? He lied and said he  
7 never lived in Dorchester, Massachusetts. Now he's taking  
8 issue with her characterization of the residence and  
9 conveniently omitting the fact that he told Your Honor he had  
10 never resided in Dorchester. I think that misrepresentation  
11 in and of itself is probative, is probative evidence that  
12 corroborates again the fact that he is who we say he is.

13 She also said that Benson and BG had been arrested  
14 together in Massachusetts and served time together. We know  
15 from the presentence report and their criminal records that in  
16 fact that was true. In fact, it was that piece of  
17 information, the fact that they had been arrested and served  
18 time together, that enabled Agent Pawson to figure out that  
19 Bernard Gadson was BG and to eventually show Ms. Novikov a  
20 photograph of the defendant, which she acknowledged was Gio.

21 So I think when you step back and you look at how the  
22 investigation unfolded and you look at how reliable the  
23 information that she provided was and you consider the fact  
24 that it's consistent with what the defendant himself  
25 acknowledged at his own plea hearing, I think it's clear he's

1       Gio.

2               And as the Government said in its brief, there is zero  
3 evidence implicating Mr. Williams in the case. He was just  
4 tagging along for the ride when he came up to Maine. He was a  
5 friend of Mr. Benson's. And the defendant has offered no  
6 evidence to the contrary on that point.

7               So when you step back and look at the way the case  
8 evolved and you look at the information she provided and you  
9 look how consistent it is with the prosecution version he  
10 acknowledged and the other evidence that is in the case, I  
11 think it's clear, he is Gio.

12               THE COURT: All right. And so that the record is  
13 clear on this point, the actual evidence that you're referring  
14 to in making these factual assertions are Government's 1 and  
15 2, along with the prosecution version documents filed in --  
16 with the court in connection with Mr. Gadson and the two other  
17 co-conspirators, Benson and Novikov, and I believe you've also  
18 referenced Mr. Gadson's plea agreement. Is that a fair and  
19 accurate identification of the actual evidence that you're  
20 referring to?

21               MS. SAWYER: Yes, Your Honor, with one exception or  
22 one addition. Ms. Novikov also told Agent Pawson that the  
23 defendant owned a number of luxury vehicles that he rented out  
24 to, you know, to just generate cash. That is a really unique,  
25 discrete fact I think that also establishes he's Gio, and that



1 is corroborated by the presentence report itself, which notes  
2 his ownership of luxury vehicles and which notes the fact that  
3 he rented them out from time to time. I -- I think the fact  
4 that she knew that about the defendant and it's confirmed in  
5 the presentence report is another piece of evidence that's  
6 very, very compelling.

7 THE COURT: Thank you. Attorney Rioux?

8 MR. RIOUX: Thank you, Your Honor. Your Honor, in  
9 the prosecution versions at issue here -- and I apologize if  
10 I'm hard to hear -- Mr. Gadson did of course admit to the  
11 prosecution version and did not contest the information there.  
12 This document was the product of some negotiation or  
13 discussion to settle on the terms.

14 Now, certainly we could not -- we could not and did not  
15 intend to dispute the assertions of what Ms. Novikov said  
16 during an interview. She clearly made various statements  
17 during an interview to Agent Pawson. And -- and we  
18 acknowledge that there were transactions throughout the New  
19 England area involving Ms. Novikov and Mr. Benson.

20 THE COURT: Does that jibe with what I understand  
21 your position is today, which is that he was only involved in  
22 three?

23 MR. RIOUX: He was involved in a limited number of  
24 transactions while Benson and Novikov were engaged in a  
25 broader -- a broader conspiracy to do other bank fraud

1 transactions.

2 THE COURT: So those other transactions are not part  
3 of the conspiracy to which your client has pled guilty?

4 MR. RIOUX: Well, Your Honor, he has pled guilty  
5 to -- to the bank fraud allegation and to the aiding and  
6 abetting identity theft, and he -- he acknowledges that he did  
7 overlap with their conspiracy to some limited degree. The  
8 question is whether the entirety of the transactions those two  
9 engaged in are attributable to Mr. Gadson as relevant conduct,  
10 and we submit that they are not.

11 Ms. Novikov made assertions here that she had, as we  
12 discussed, been to Gio's home, which she described as a  
13 mansion in Dorchester or Mattapan, and the -- explained that  
14 she knew him to own a Rolls Royce and I believe a Porsche.  
15 There is some reference in the presentence report that there  
16 was -- Mr. Gadson told the investigator that he at one time  
17 did have a Porsche SUV, and so I agree that that is there.  
18 But there's no connection to a Rolls Royce or similar vehicle  
19 like that.

20 Ms. Novikov admitted that she was -- her interaction was  
21 with Mr. Benson. She was recruited by him, encountered by him  
22 initially. He worked with her on a daily basis, came up with  
23 locations to run schemes, to go in and do transactions. It is  
24 notable that the individual she claims to be running the  
25 operation is Gio, and at the transaction in January at Key

1 Bank there is present there Giovanni Williams. He is present  
2 throughout the early investigation and is a suspect that Agent  
3 Pawson names throughout his reports. Additionally he shows up  
4 on surveillance footage, as Ms. Sawyer points out, along for  
5 the ride. He appears to be along for the ride throughout this  
6 time period, perhaps just as a passenger, but I submit to the  
7 Court that that is not terribly believable, that Giovanni  
8 Williams, who is present for these transactions, is  
9 definitively not the Gio that is referenced by Ms. Novikov.  
10 In fact, we submit that he is the Gio referenced by Ms.  
11 Novikov. And while Mr. Gadson did have some involvement, he  
12 became a convenient scapegoat to blame for this transaction or  
13 to protect Gio, who is the actual leader of the conspiracy.

14 THE COURT: So is that your -- is that your theory  
15 as to what -- or belief as to why she would lie and that is  
16 she's protecting somebody?

17 MR. RIOUX: Yes, Your Honor.

18 THE COURT: Okay.

19 (Defendant conferred with counsel.)

20 MR. RIOUX: And additionally, of course, she is  
21 cooperating and giving information to protect herself because  
22 she received a substantial benefit for her cooperation, which  
23 is certainly fair and reasonable. But by implicating Mr.  
24 Gadson, who Mr. Pawson comes to believe is a leader of the  
25 conspiracy, she helps to reenforce the Government's theory of

1 the case and she protects Giovanni, who is an obvious  
2 alternative for the Gio nickname.

3 THE COURT: Is there any evidence before me to  
4 suggest that -- I've forgotten his last name -- Giovanni  
5 Williams, is it?

6 MR. RIOUX: Yes, Your Honor.

7 THE COURT: Is there any evidence that relates to  
8 Mr. Williams' actions suggesting criminal conduct on his part?

9 MS. SAWYER: No, Your Honor, and I do want to  
10 clarify one thing. In the Homeland Security reports that  
11 Agent Pawson authored, there's an introductory paragraph that  
12 characterizes Giovanni as an accomplice, and that just sort of  
13 carries forward through all the reports. That information is  
14 based solely on the fact that Mr. Williams was arrested by  
15 Kittery police on the same day that Novikov was and that  
16 Benson was. There was zero evidence to -- to suggest that he  
17 was involved in any other way. So that line in the report I'm  
18 proffering to the Court is based solely on the fact that he  
19 happened to be arrested at the same time.

20 THE COURT: Thank you. Yes.

21 MR. RIOUX: There is zero evidence except for his  
22 physical presence at the location of the bank fraud, his  
23 association with Novikov and with Mr. Benson, and the fact  
24 that his first name is Giovanni and the alleged leader of the  
25 conspiracy is a man referred to as Gio. So if we discount all

1 of those things there is no evidence. But if we consider  
2 those items there certainly is evidence.

3 THE COURT: All right, thank you.

4 MS. SAWYER: One more point I wanted to make, Your  
5 Honor. When Ms. Novikov was arrested by Kittery -- the  
6 Kittery Police Department in January, she cooperated  
7 immediately. The federal government was not even involved.  
8 She spoke to Detective Cummer first and when Detective Cummer  
9 heard what she had to say he called Agent Pawson and said,  
10 hey, this might be something that you want to look at. But at  
11 the time that she implicated the defendant and spilled her  
12 guts there was no offer on the table from my office or any  
13 prosecuting office that she would receive any credit  
14 whatsoever for -- for testifying or for telling truthfully  
15 what she understood.

16 THE COURT: Am I correct that in her proffer, which  
17 is then reflected in the report that I have, she identifies  
18 Gio as having -- the same person as having a second nickname?

19 MS. SAWYER: Yes.

20 THE COURT: And that is what?

21 MS. SAWYER: BG, B as in boy, G as in girl, B as in  
22 Bernard, G as in Gadson, correct.

23 THE COURT: All right. Thank you. Any other  
24 evidence or argument from either side on these points?

25 MS. SAWYER: Your Honor, I am loathe to go down this

1 path, but I did mark a handful of exhibits that further link  
2 the defendant to the conspiracy that Ms. Novikov and Mr.  
3 Benson were involved in. They -- I can proffer to the Court  
4 what they consist of. I can tell the Court that when Roza  
5 Novikov applied for loans in Massachusetts and in Maine she  
6 used a cell phone number, (508) 245-1943. We obtained PayPal  
7 records for the defendant Mr. Gadson's PayPal account, and  
8 that number is listed in the PayPal records for Mr. Gadson's  
9 account.

10 In addition, Roza Novikov, every time she was asked to  
11 provide a lease agreement, it was a lease between the victim  
12 and a landlord who was purportedly Ryan Casey. Every time,  
13 same standard lease agreement between Ryan Casey and then the  
14 name of the victim who she was impersonating. In fact, the  
15 defendant when he applied for those -- those loans in  
16 Massachusetts in March in New Bedford, he provided the exact  
17 same lease agreement between Ryan Casey and Joshua McDermott,  
18 who's the individual whose identity he had stolen. So I would  
19 just proffer that as additional information linking the  
20 defendant to the scheme that Novikov and Benson participated  
21 in.

22 THE COURT: Do you actually have some type of  
23 exhibits to offer in support of the proffer?

24 MS. SAWYER: I can, Your Honor. I'm going to offer  
25 Exhibit 3, Your Honor. There's two copies of that.

1 THE COURT: Okay.

2 MS. SAWYER: For the record, this is a PayPal  
3 account that the defendant opened on Thursday, December 20th,  
4 2018. You'll see his first name and last name on the first  
5 page. If you turn to the second page, you will see the phone  
6 number associated with that account is (508) 245-1943.  
7 Notably at the top you'll see several e-mail addresses  
8 associated with this PayPal account, including the infamous  
9 Andrewking033 Gmail account, which is discussed in a lot of  
10 the pleadings in this case.

11 I'm going to now offer Exhibit 4. Exhibit 4, Your  
12 Honor, is a member account agreement between Sarah Bills, who  
13 is one of the victims in this case whom Roza Novikov was  
14 impersonating, and the Freedom Credit Union. This transaction  
15 is on the list of transactions in Paragraph 16 of the revised  
16 presentence report. It's the fifth one down on Page 8,  
17 Freedom Credit Union in Massachusetts. If you look on the  
18 very first page of this exhibit you will see she listed her  
19 phone number as (508) 245-1943, and if you turn towards the  
20 back of Exhibit 4, Your Honor, you will see a residential real  
21 estate lease between Ryan Casey and Sarah Bills. This is a  
22 lease agreement that she presented, Roza Novikov presented, at  
23 the time she applied for this loan.

24 Exhibit 5, Your Honor. This is the loan application  
25 that the defendant himself submitted to the First Citizens

1 Federal Credit Union in Fairhaven, Massachusetts. That is the  
2 transaction that he admitted and acknowledged and accepted  
3 responsibility for in his sentencing memorandum. And you'll  
4 see that he posed as an individual by the name of Joshua  
5 McDermott. And if you turn to the third page of this  
6 residential real estate lease, again, you'll see a virtually  
7 identical lease agreement between Ryan Casey and Joshua  
8 McDermott, which the defendant presented in support of this  
9 loan application. And although the picture is a little  
10 blurry, if you turn two pages in you will see that he also  
11 presented a driver's license in the name of Joshua McDermott  
12 bearing his photograph.

13 And then 5A, Your Honor, the defendant used a platform  
14 called paystubcreator.net to generate the bogus pay stubs that  
15 he provided to Novikov and others when they applied for loans.  
16 Exhibit 5A, Your Honor, is an e-mail that we found in the  
17 Andrew King Gmail account when we obtained that with a search  
18 warrant. You will see that Page 1 of 5A is an e-mail, a cover  
19 e-mail, from paystubcreator.net to again Andrew King Gmail  
20 address. Conveniently the defendant copied himself on the  
21 e-mail; there's -- you see his name there. And then if you  
22 turn the page you will see the Army National Guard Recruiting  
23 Office pay stubs that the defendant submitted one day later to  
24 the credit unions in Massachusetts when he posed as Joshua  
25 McDermott.



1 THE COURT: And what does -- what is the import of  
2 this exhibit? What is the importance of it?

3 MS. SAWYER: It is -- I think it confirms Roza  
4 Novikov's characterization of his role in the overall scheme,  
5 that namely he was the one that created the bogus pay stubs  
6 and provided them to her to support fraudulent loan  
7 applications. And here you have an e-mail in his e-mail  
8 account essentially creating a pay stub that he then the very  
9 next day took to banks in Massachusetts and applied for  
10 fraudulent loans. So it's again consistent with his -- her  
11 characterization of his role in the overall conspiracy.

12 THE COURT: Thank you. Attorney Rioux, I'm going to  
13 take a brief recess. I will give you a chance to review these  
14 with your client further. So it is now 11:00 o'clock, and I  
15 will be back on the bench by 11:10. We'll be in recess.

16 (A recess was taken from 11:02 a.m. to 11:14 a.m.)

17 THE COURT: We're back on the record in the matter  
18 of United States versus Bernard Gadson. Attorney Rioux, do  
19 you wish to be heard further?

20 MR. RIOUX: Yes, thank you, Your Honor. I reviewed  
21 the exhibits the Government has offered, and I'll certainly --  
22 obviously the matter's not gone to trial here so we're not  
23 fully disputing all of these things. But generally speaking,  
24 this does help to establish the conduct that Mr. Gadson pled  
25 guilty to. He certainly did, and the evidence would show,

1 procure information that was used to further bank fraud and  
2 engaged in conduct that aided and abetted identity theft and  
3 this is evidence of that. But it does not answer and what it  
4 does not prove is whether he was in fact Gio, who is the  
5 individual alleged to be the leader of the conspiracy. Mr.  
6 Gadson's accused in the New Bedford matter, which we agree can  
7 be relevant conduct here, but it's still a pending case that  
8 has not been fully contested in another jurisdiction, so all  
9 the facts are not out in that matter. But there certainly is  
10 more to that than what we see here. However, we concede that  
11 that is countable as relevant conduct. There is an overlap of  
12 information that was used throughout some of these  
13 transactions. That's beyond dispute.

14 The question is really whether Mr. Gadson is a leader  
15 and whether he's responsible for all of the transactions that  
16 the others conducted without him being present and we assert  
17 without his involvement. He's certainly responsible for some  
18 of it. He pled guilty and that's why we're here. But he  
19 shouldn't be held responsible for all of it and he's not the  
20 leader.

21 THE COURT: Thank you. Based upon the evidence that  
22 I've been presented with and I have now considered, I find  
23 that there is substantial evidence that provides corroboration  
24 of the investigatory reports of the interviews conducted with  
25 a co-conspirator in this case, Ms. Novikov, and specifically

1 her identification of the defendant, Mr. Gadson, as being Gio.  
2 I'm not going to recount all of the evidence that provides  
3 substantial support for that -- her identification of Mr.  
4 Gadson as being Gio, but I would note that her  
5 characterization of Mr. Gadson's role in the conspiracy of  
6 providing the false identities, credit scores, fraudulent loan  
7 applications, supporting documents, pay stubs, W-2s, lease  
8 agreements, certainly his role in the conspiracy is shown in  
9 connection with the three transactions to which he admits  
10 direct involvement, and the same documents or similar  
11 documents were used in connection with other fraud committed  
12 during -- by the conspiracy as a whole in addition to those  
13 three. Further, that with respect to those three and,  
14 therefore, with respect to the others it was Mr. Gadson's role  
15 to purchase false identities or identities of innocent people  
16 which were used for purposes of the fraudulent loan  
17 applications.

18 The evidence that I've received does confirm that in  
19 fact Mr. Gadson maintain a residence in Dorchester as she  
20 suggested. There's some dispute in how she characterized the  
21 residence that's not explained by the evidence, but I don't  
22 find that as sufficient to disregard so much other  
23 corroborating information. That includes, among other things,  
24 her knowledge of him as having luxury vehicles, her  
25 identification of Gio as also going by the initials BG3, BG of

1 course being Mr. Gadson's initials, and the fact that Ms.  
2 Novikov positively identified Mr. Gadson in photographs of  
3 him.

4 The possible motive to lie suggested -- to protect  
5 another individual is simply unsupported. There's nothing --  
6 other than the fact that he was physically present, which is  
7 what brought him to the attention of authorities, there's  
8 simply no other evidence of his participation in any of these  
9 fraudulent events. And so the coincidence of his first name  
10 being Giovanni and Mr. Gadson's nickname being Gio is at least  
11 on this record a coincidence.

12 The prosecution statements -- furthermore, the  
13 prosecution statement in this case, Mr. Gadson's case, as well  
14 as the prosecution statements in the related cases provides  
15 further corroboration for statements by -- made by Ms.  
16 Novikov, and I just don't see a reason on this record to  
17 disbelieve a -- a major portion of her statements to  
18 authorities based upon the speculative idea that she is  
19 seeking to protect somebody else.

20 So for those reasons the defendant's objections to the  
21 revised presentence report that I have not already addressed  
22 on this record, and those are the objections that are  
23 summarized in ECF 212, are denied.

24 Attorney Sawyer, is there anything that I have not  
25 addressed with respect to the objections to the presentence

1 report or the evidence that you feel needs to be addressed?

2 MS. SAWYER: Only the last remaining issue, which is  
3 whether the defendant is still entitled to receive credit for  
4 acceptance of responsibility.

5 THE COURT: I understand that will be part of your  
6 sentencing argument. I'll hear that in just a moment.

7 MS. SAWYER: Yeah, that's it.

8 THE COURT: Attorney Rioux, is there anything I have  
9 not addressed that needs to be addressed at this stage?

10 MR. RIOUX: I don't believe so, Your Honor. There  
11 could be other issues that come up, but for now I think we're  
12 good.

13 THE COURT: Thank you.

14 Attorney Sawyer, I'll hear from you now at this time on  
15 behalf of the Government on the matter of sentence.

16 MS. SAWYER: Yes, Your Honor. First I'd like to  
17 address the issue of whether the defendant should receive  
18 credit for acceptance of responsibility. As I noted in our  
19 sentencing memorandum, the burden is on the defendant to show  
20 that he truthfully admitted the conduct comprised in the  
21 offense of conviction and truthfully admitted or did not  
22 falsely deny any additional relevant conduct. And as I noted  
23 in the sentencing memorandum, while the defendant is not  
24 required affirmatively to admit conduct beyond the offenses of  
25 conviction, you may consider whether he mendaciously denied

1 relevant conduct in deciding whether he's acted in a manner  
2 that's inconsistent with accepting responsibility.

3 I think, as I pointed out in the memo, the probation  
4 office in this case characterized this issue as a close call,  
5 and that was before the defendant denied responsibility for  
6 the vast majority of his conduct in this case. And I think  
7 that -- I think that conduct has disqualified him from  
8 receiving credit for acceptance of responsibility.

9 This defendant has never shown remorse for his conduct  
10 or accepted responsibility for the pain and the damage and the  
11 harm he caused to so many individuals and financial  
12 institutions. And so I just -- I strongly urge the Court to  
13 strip that credit away from him when calculating the final  
14 sentencing guidelines.

15 If Your Honor were to do that, the guideline range,  
16 taking into account the mandatory two-year consecutive term  
17 that must be imposed in this case, is up to 149 months. I was  
18 very clear in my sentencing memorandum that we believe that  
19 the defendant should be sentenced at the very high end of the  
20 guideline range. He is, as I argued in my brief, a classic  
21 grifter. He's a con man. He has supported himself and lived  
22 a lavish lifestyle by cheating and stealing, and there's no  
23 evidence that he has ever, ever accepted responsibility for  
24 that conduct. It is his way of life. And it makes him a  
25 danger to the community, just as Judge Rich found when he

1       revoked his bail in this case.

2               The defendant has a lengthy criminal history. He's  
3       served time in prison before. It's not dissuaded him one iota  
4       from engaging in this type of conduct. He may have traded a  
5       gun for a computer and a credit card, but he is still just as  
6       dangerous as he's ever been. And I think it's important to  
7       send a message, Your Honor, that this conduct is serious and  
8       it needs to be punished harshly to deter other people he's  
9       associated with and other people out there who may be tempted  
10      to steal people's personal identification and run a scheme  
11      where you basically grift using runners to go in and steal  
12      money from financial institutions using the identities of  
13      helpless victims who don't even know their identities have  
14      been stolen. That message needs to get out there.

15             And I put this in the memo and I think this bears  
16      reiterating. He has spread his conduct around in different  
17      jurisdictions, in different towns, in different financial  
18      institutions. He rolls into town, burns it down, and moves on  
19      to the next one. And there are a lot of local police  
20      departments in Massachusetts and in Maine who simply never  
21      could put it all together because he moved too quickly and he  
22      hid his tracks. But the rubber finally met the road in Maine  
23      when a detective with the Kittery Police Department called  
24      Special Agent David Pawson at Homeland Security and said, I  
25      think we may have something big here, and he did. And now

1 he's been caught and we respectfully urge the Court to  
2 sentence him to the highest possible sentence in this case.  
3 Thank you.

4 THE COURT: Attorney Sawyer, in the companion case  
5 against Mr. Benson Judge Hornby imposed sentences which  
6 resulted in a total sentence of 57 months. And what do you  
7 say about the need to avoid unwarranted sentencing disparities  
8 consideration as it relates to my sentencing of Mr. Gadson?

9 MS. SAWYER: Well, in that case, Your Honor, the  
10 defendant's guideline range was lower because he got -- he got  
11 a variance for pleading during COVID. He got the benefit of a  
12 COVID plea agreement, which reduced that range further. Mr.  
13 Benson did not engage in criminal conduct while he was on  
14 pretrial release, as this defendant did. This defendant  
15 racked up almost \$80,000 in fresh harm in damages while he was  
16 subject to supervision by this court. I think that alone  
17 distinguishes his case from Mr. Benson's case.

18 Mr. Benson also, if you -- if you had a chance to read  
19 the presentence report, did not have cash and cars and jewelry  
20 and watches and all the stuff that this defendant has.  
21 Clearly he was profiting and using other people as shields to  
22 keep himself from getting caught red-handed. I think that  
23 completely distinguishes Mr. Benson from Mr. Gadson.

24 THE COURT: Am I correct in understanding that, as  
25 set out in the presentence report, Ms. Novikov -- and perhaps



1       it's in the exhibit, not in the presentence report, but I'd  
2       like to hear you comment on this -- Ms. Novikov reported to  
3       the authorities that Mr. Gadson was receiving 60 percent of  
4       the proceeds from these fraudulent transactions and Mr. Benson  
5       was receiving 40 percent from which he was then paying her?  
6       Is that --

7               MS. SAWYER: That's correct, Your Honor. That was  
8       in the information that she provided to law enforcement. And  
9       that is another reason, as probation noted, for the role --  
10      the role enhancement. It makes him more culpable; he profited  
11      more from the activity. And so that's another important  
12      consideration, Your Honor.

13             THE COURT: Thank you.

14             Attorney Rioux, I'll hear from you on behalf of Mr.  
15      Gadson.

16             MR. RIOUX: Thank you, Your Honor. Your Honor, it's  
17      not clear to me, have we resolved the issue of the Minnesota  
18      allegations that were part of my objection?

19             THE COURT: What is -- well, I asked you whether  
20      there were any other matters we needed to address.

21             MR. RIOUX: Well, I thought we were wrapping up just  
22      with regard to the -- the Giovanni or the Gio leadership  
23      issue. I -- my apologies. There is the -- the issue of the  
24      conduct alleged to what happened involving a separate alleged  
25      conspiracy in Minnesota detailed in Paragraphs 19 --

1 Paragraph 19, basically, of the presentence report.

2 THE COURT: And what specifically is your argument  
3 with respect to Paragraph 19?

4 MR. RIOUX: Well, Your Honor, the allegation here is  
5 that there was -- there's an uncharged set of allegations out  
6 of Minnesota, which are alleged to have involved other  
7 individuals and a claim that Mr. Gadson was involved in those  
8 transactions. We don't have full discovery on this or  
9 anything of that nature, but I believe, my understanding,  
10 these intended loss amounts have been added to the conspiracy  
11 involving the allegations of Novikov and Benson. And with  
12 those additions it would put it into the next category with  
13 regard to loss amount for a 12-point enhancement rather than a  
14 10. And we dispute and still dispute that those allegations  
15 are not part of the relevant conduct for the offense of  
16 conviction here. It's totally different geography, different  
17 time frame, different individuals involved.

18 THE COURT: It would be relevant because it was  
19 alleged fraudulent conduct conducted while he was on bail for  
20 this matter. So are you challenging whether it's relevant, or  
21 are you challenging whether there's evidentiary support for  
22 those allegations?

23 MR. RIOUX: Well, I guess I just want to make sure  
24 we clearly had a ruling on that issue.

25 THE COURT: I want to make sure I understand your

1 argument. Are you suggesting it's not relevant, if in fact  
2 there's factual support for it?

3 MR. RIOUX: Yes, Your Honor, it's my contention that  
4 it would be conduct unrelated to the offense of conviction and  
5 so it's not relevant conduct as to the sentence.

6 THE COURT: And why would it be unrelated to the  
7 offense of conviction if someone's on bail and they commit  
8 similar frauds? How could that not be related conduct?

9 (Defendant conferred with counsel.)

10 MR. RIOUX: Your Honor, they are mere accusations;  
11 they're not even -- they don't even rise to the level of  
12 accusations yet. There are no charges; there have been no  
13 arrests, no indictments related to this. This is information  
14 we were provided with in -- basically in an affidavit from  
15 Agent Pawson at the time of bail revocation. It's not  
16 anything that we pled to or admitted to as part of the --

17 THE COURT: So you're saying it's not proven.

18 MR. RIOUX: Yes.

19 THE COURT: My question to you is you argued it's  
20 not relevant. If it's proven is it relevant?

21 MR. RIOUX: I suppose so.

22 THE COURT: Attorney Sawyer, do you have any  
23 evidence to support Paragraph 19?

24 MS. SAWYER: I do, Your Honor. I do. I would just  
25 note that, again, the Court is entitled to rely on the

1 information set out in the presentence investigation report  
2 unless the defendant controverts it, and in this case he  
3 really has not offered any evidence to controvert it. But I  
4 am prepared to offer the Court evidence linking him to the  
5 commission of those crimes. I agree, I had understood his  
6 objection to be that, even if he was involved, it wasn't  
7 relevant conduct as a legal proposition. I now understand him  
8 to be saying that there's no evidence linking him to the  
9 frauds in Minnesota. I'm prepared to present evidence.

10 THE COURT: And what form does that evidence take?

11 MS. SAWYER: Documents. Documents.

12 THE COURT: And how long will your presentation on  
13 that point require?

14 MS. SAWYER: I think I should be able to do it in  
15 about 15 minutes.

16 THE COURT: Fifteen minutes, okay. One moment,  
17 please.

18 (The Court conferred with the clerk.)

19 THE COURT: Attorney Sawyer, please proceed.

20 MR. RIOUX: Your Honor, one moment. I've consulted  
21 with Mr. Gadson further. He doesn't want to contest the  
22 factual basis for the Minnesota conduct, so we're happy to  
23 move forward.

24 THE COURT: So as I understand it the objection to  
25 Paragraph 19 is withdrawn; is that correct?

1 MR. RIOUX: Yes, thank you.

2 THE COURT: All right. That being the case, I  
3 believe we're at the point, Attorney Rioux, where I'll hear  
4 from you on the matter of sentence.

5 (Defendant conferred with counsel.)

6 MR. RIOUX: Thank you, Your Honor. With regard to  
7 the acceptance of responsibility, Your Honor, Mr. Gadson  
8 obviously did plead guilty, he admitted to the prosecution  
9 version of the offense. There is in our estimation a pretty  
10 complicated set of transactions and events related to what  
11 happened here and in our view a valid dispute as to what Mr.  
12 Gadson's role was in those transactions.

13 We've attempted to carve out a plea and an agreement  
14 that takes responsibility but frankly allowed him room to  
15 contest the issues that he contested, that he did not plead  
16 guilty to as part of the counts of conviction and that he had  
17 asserted or not supported on the record. If the matter had  
18 gone to trial, obviously, things would have played out in a  
19 different way. That's not what we've done here.

20 Still, we respect the Court's determination and  
21 understand the rulings the Courts have made, but I think there  
22 was a -- a legitimate, good-faith contest as to the  
23 applicability of certain issues here. The Court having found  
24 against us is understandable, but it doesn't mean that he has  
25 failed to accept responsibility by contesting issues that make

1 a potentially significant difference with regard to his  
2 sentence.

3 Turning to how the Court should resolve the matter, we  
4 are also concerned about the question of whether there would  
5 be substantial disparity in sentences here. Mr. Benson  
6 received a sentence of 57 months. Ms. Novikov I believe  
7 resolved her matter with a sentence of 27 months or  
8 thereabouts. It's quite clear that Mr. Benson and Ms. Novikov  
9 were involved in directly and personally a large number of  
10 transactions and really all of these transactions that Mr.  
11 Gadson's alleged to be Gio in connection with. And so I would  
12 suggest that a sentence along the lines of what the Government  
13 has requested would create a significant and unwarranted  
14 disparity for sentencing purposes.

15 Mr. Gadson is a man who stands before the Court accused,  
16 convicted of serious crimes for, but he still has substantial  
17 support from friends and family, many of whom have joined us  
18 in the courtroom, and I'll name them for the Court so the  
19 Court can know who's here to speak on his behalf or -- not to  
20 speak on his behalf but at least provide support.

21 Mr. Byron Williams is here, if you could stand up. He's  
22 a friend of Mr. Gadson's since childhood. He's traveled from  
23 out of state to be here. Michelle Stennett is a friend of  
24 many years, she's traveled here. Brittany Parson, actually  
25 Mr. Gadson's ex-girlfriend but still a close friend, is here.

1 She's known him for over 10 years. Kevin Fulton, a friend  
2 since childhood, is here to provide support as well and has  
3 traveled from out of state to attend the proceedings. Robert  
4 Pitt, a friend since teenage years, has traveled a long  
5 distance to provide support to Mr. Gadson. Shamekia Harvey is  
6 here as well, Mr. Gadson's sister, and has traveled from out  
7 of state to attend the proceedings. Asia Benson is here as  
8 well to provide support, Mr. Gadson's sister. Star Johnson is  
9 here as well, a friend of Mr. Gadson's, traveling from out of  
10 state to attend the proceedings. And Lauren Alvarado, a  
11 friend of Mr. Gadson's of many years, has also come here.

12 Mr. Gadson obviously has made -- has made serious  
13 mistakes and has violated the law, and he stands here ready to  
14 accept sentence for having done that. But what we're asking  
15 the Court to consider is a sentence that would be  
16 substantially less than what the Government is proposing, a  
17 sentence that would give him a chance at a future within the  
18 relatively near future, to give him a horizon to be out and to  
19 be a parent to his two young children, ages eight and two, to  
20 be successful in business and work.

21 He has worked in legitimate business, in fact, was  
22 co-owner of a nightclub and had started to become successful  
23 before his recent incarceration. He has the ability to do  
24 productive work in the future and to be a contributing member  
25 of society.

1 In part of my exhibits, Your Honor, I provided the Court  
2 with some documentation from the jail education program,  
3 Exhibit 5. While incarcerated -- actually Exhibit -- pardon  
4 me, I think I may have numbered them -- but Exhibit 6, I  
5 believe, Your Honor, provides a transcript of educational  
6 programs that Mr. Gadson has participated in during the course  
7 of his incarceration. Now, these are through an education  
8 program that is voluntary they make available to individuals  
9 at Strafford County. As you can see, he's completed some 86  
10 hours of educational programming, including parenting courses,  
11 general sort of prosocial programming, some vocation-related  
12 work as well.

13 He is also working as part of the jail industries  
14 program, and there's a letter of support, I believe I stamped  
15 it as Exhibit 5, from Michael Garcia, who is an employee of  
16 the Strafford County Department of Corrections and writes on  
17 Mr. Gadson's behalf. He has been involved in jail industries  
18 as -- throughout his stay at Strafford County. He is I think  
19 the only individual entrusted with the screen printing program  
20 there and has developed some expertise in that field.

21 While incarcerated, as this Court's aware right now,  
22 conditions are challenging. He was infected with COVID in  
23 January of this year and became quite -- quite sick. He  
24 recovered and has done all right over the last month or so.  
25 His pod has been under lockdown because of a new COVID



1 outbreak. He's been able to steer clear of that. But  
2 in-person visits at the facility have of course been  
3 suspended. In fact, outside physical mail is no longer  
4 available. They photocopy and provide photocopies of mail,  
5 but he's been unable to receive color photographs -- oh, he's  
6 only getting legal mail, and even that is a photocopy  
7 facsimile of the mail. There's a GTL tablet communication  
8 system, but that has been out recently and has worked only  
9 intermittently, and so his contact with family and other  
10 sources of support have been limited.

11 The programming he's been able to do is through the  
12 video-based education system, but the in-person educational  
13 programs, treatment, vocational programs that one might hope  
14 to be able to accomplish while incarcerated have been largely  
15 unavailable, in fact, entirely unavailable for his stay. It's  
16 hard to know what the timeline will be on these continued  
17 restrictions, but it does make incarceration now substantially  
18 more burdensome and more challenging than it might have been  
19 even a short time ago. We would ask the Court to consider  
20 that in imposing a sentence. But I would still submit that  
21 Mr. Gadson's participation in industries, in programming and  
22 educational opportunities demonstrates that he has a good  
23 chance or a good opportunity for rehabilitation once he is  
24 released.

25 Your Honor, it's also worth noting, we talked about it a

1 little bit, it's in the presentence report, the video variance  
2 issue. Mr. Gadson has consented to video proceedings  
3 throughout the pendency of this case and we did the guilty  
4 plea by video, we've conducted all other hearings remotely.  
5 This matter was scheduled for in-person proceedings because we  
6 had anticipated that live witnesses may be called, but if we  
7 had known they would not be called we certainly would have  
8 consented to proceed by video in these proceedings. So I  
9 would ask the Court to consider a variant sentence based on  
10 Mr. Gadson's willingness to participate in court by video and  
11 his actual participation in all other court proceedings by  
12 video up to this point.

13 Mr. Gadson did come up under challenging circumstances,  
14 Your Honor. And his mother, and I can attest personally to  
15 this, suffers from some severe mental illness. I have spoken  
16 to her on a number of occasions. She is quite ill at the  
17 moment, and I -- as of last check was institutionalized. She  
18 is -- she's suffered from those conditions for many years and  
19 that impacted her ability, I would suggest, to be an  
20 effective -- an effective parent during much of Mr. Gadson's  
21 childhood.

22 He has had some success in his life and I would say  
23 seemed to move past some of those struggles. In the early  
24 part of the 2000s he worked for some years with Roca, which is  
25 an agency that works with folks who are the victims of trauma

1 or violence or difficult childhood circumstances. He was  
2 featured in a video for that organization as one of the youth  
3 leaders there. And he -- he really accomplished a lot with  
4 that agency and still maintains relationships with folks in  
5 that agency to this day. He hopes upon release that he may be  
6 able to recommence his work there or take advantage of  
7 services that they may offer. But, you know, it's a shame  
8 that he's found himself here because, despite the challenges  
9 he faced in his youth, he -- he has been effective in many  
10 ways in rising above that and finding success.

11 What we would ask the Court to consider doing is to  
12 impose a sentence that is more commensurate with what Mr.  
13 Benson received as part of his -- as part of his case  
14 resolution. Our proposal is for something in the range of 39  
15 months of incarceration followed by five years of supervised  
16 release. Obviously that would be a significant variance off  
17 of what the guidelines might suggest, but under these strange  
18 circumstances and these difficult times I suggest that it  
19 would be appropriate.

20 He may face -- he still does face other proceedings in  
21 New Bedford which are unresolved and which he hopes  
22 potentially to resolve after this case is done, and that will  
23 be sort of the next phase. But to impose a sentence of  
24 something north of 10 or 12 years, in looking at other  
25 comparable cases I couldn't find anything that netted a

1 sentence in that -- in that range that's readily available in  
2 this district. In researching other fraud cases, bank fraud  
3 cases, that I could find recent U.S. Attorney press releases  
4 on, I came across a case in Massachusetts involving \$3 million  
5 in bank fraud that netted sentences in the range of 30 or 40  
6 months, people who had perhaps less criminal history, but  
7 commonly bank fraud matters do not in my experience net  
8 sentences of that level.

9 I would suggest that a sentence in the range of 140 plus  
10 months here is unwarranted, is substantially disparate from  
11 the other similarly situated co-conspirators, co-defendants.  
12 My suggestion is for a sentence that is something more  
13 commensurate with what Mr. Benson received.

14 I think that in fact we could impose substantially more  
15 supervised release potentially, I think up to 10 years would  
16 be possible here, and supervised release may be exactly what  
17 would be the best way to address Mr. Gadson's circumstances.  
18 Probation can be an effective supervisor; they can help him  
19 with educational and vocational opportunities. The probation  
20 officers in his area are known to be quite diligent and can  
21 work effectively with him.

22 He's got substantial support from friends and family.  
23 He's got the smarts and the work ethic to do well on release.  
24 We just ask that we not delay his release by something in the  
25 range of 10 years. He still has young children and he hopes

1 to be a part of their childhood and a part of their future.

2 And that's why we're making the request I'm making.

3 THE COURT: Attorney Rioux.

4 MR. RIOUX: Yes.

5 THE COURT: With respect to unwarranted sentencing  
6 disparities, as I consider that argument in this case,  
7 specifically in connection with Mr. Benson, there's a number  
8 of -- it seems to me there's a number of facts that perhaps  
9 distinguish Mr. Benson and Mr. Gadson, but the most notable is  
10 that Mr. Gadson has pled and now been found guilty of criminal  
11 contempt, of essentially continuing the criminal conduct while  
12 on bail. Why should I not regard that as substantial  
13 justification for a disparate sentence?

14 MR. RIOUX: Your Honor, I agree that it could  
15 justify a different treatment here. He pled guilty and  
16 admitted to the contempt allegation based on his travel  
17 without permission, and he on several occasions conceded that  
18 he did travel without permission, always returning to the  
19 jurisdiction, never missing check-ins with probation, but that  
20 he did violate that restriction.

21 I concede, Your Honor, that that is a difference between  
22 the two and could be the basis for treating Mr. Gadson  
23 differently. But to effectively nearly -- more than double  
24 the sentence that Mr. Benson got I think is still an  
25 unwarranted disparity, even though there may be some reason to

1 warrant some disparate treatment.

2 THE COURT: Thank you.

3 Mr. Gadson, if you'll stand, please. As a defendant who  
4 is before the Court about to be sentenced you have a  
5 constitutional right to speak to me at this time, but it's  
6 only if you wish to speak. You're not required to speak. Do  
7 you wish to speak?

8 THE DEFENDANT: Yes, I do, Your Honor.

9 THE COURT: Please go ahead. Why don't you pull the  
10 microphone a little bit closer to you, and I'm actually going  
11 to ask you to keep your mask on, please. And like I said,  
12 pull the microphone over, thank you. All right, Mr. Gadson,  
13 please go ahead.

14 THE DEFENDANT: First and foremost, I'd like to  
15 thank Your Honor and the Court for allowing me to present  
16 myself. I'd like to take the time to say I apologize for my  
17 part in the activity that took place in Kittery, Maine, at Key  
18 Bank in early 2019. I take full responsibilities for my all  
19 actions, including my travel to Miami and San Juan, Puerto  
20 Rico --

21 THE COURT: One moment, Mr. Gadson. The court  
22 reporter needs you to talk slower so that we can make sure we  
23 get all of your words properly down. So take your time,  
24 please.

25 THE DEFENDANT: I take full responsibility for all

1 of my actions, including my travel to Miami and San Juan,  
2 Puerto Rico, without permission of the supervising probation  
3 officer at the time, Taylor Waltz. My actions were completely  
4 unexcusable and unacceptable.

5 Since my incarceration I have taken steps to be a  
6 better person, make better decisions, and partake in all  
7 rehabilitation programs available at the facility. I'm  
8 currently a supervising trustee at the Prison Industry  
9 Enhancement Certification Program. My day-to-day  
10 responsibilities require me to clean, sort, and provide all  
11 clothing and linens to the hospice patients at the county  
12 nursing homes and hospitals five days a week. I'm also the  
13 only inmate that currently runs the commercial screen  
14 program --

15 THE COURT: Remember to slow down, please.

16 THE DEFENDANT: For the hospice patients at the  
17 county nursing homes and hospitals five days a week. I'm also  
18 the only inmate that currently runs the commercial screen  
19 printing program for Strafford County, which requires me to  
20 put together current and new officers' uniforms, print names  
21 and badges on their clothing, and distribute the uniforms upon  
22 order, including all the other surrounding counties in New  
23 Hampshire.

24 Because of the current COVID pandemic outside counselors  
25 are not allowed in the building to put -- to stop the spread

1 of infection. I took my days off of the week to become an  
2 educational tutor with the jail inmate-led Edovo  
3 rehabilitation program. I have helped myself and other  
4 inmates complete a large number of classes. I completed over  
5 340 courses, earning myself 43 certificates of completion to  
6 prepare myself for the future and a return home.

7 On a more personal note, I'm a father. I have two  
8 children ages eight and two, only one and seven at the time of  
9 my incarceration. I haven't been able to see them in over a  
10 year. I would like to try to make it home to them as soon as  
11 possible so I can be part of their lives. I am a business  
12 owner of a private social club that's been open since 2020. I  
13 have great support with the community. That's all.

14 THE COURT: Thank you, sir. And, Attorney Rioux,  
15 anything further on behalf of your client?

16 MR. RIOUX: No, thank you, Your Honor.

17 THE COURT: The sentencing issues presented to me  
18 this morning are relatively complicated, and so I think it's  
19 important that we and I take the time needed to make sure that  
20 all the arguments have been carefully considered. For that  
21 reason I'm going to recess, and during that recess I'll be  
22 working on and reviewing again all the exhibits and the  
23 arguments before I decide what is a fair and just sentence in  
24 this case. We are going to be in recess until 12:45 p.m.  
25 Nick, does that work? We are going to be in recess until



1 12:45 p.m. I will see you all back in the courtroom at that  
2 time.

3 (A recess was taken from 11:58 a.m. to 12:58 p.m.)

4 THE COURT: I want the record to be clear that the  
5 Court is receiving as part of the evidentiary record of this  
6 sentencing all of the exhibits that the parties have marked  
7 and presented to me, which I have carefully considered. I  
8 have also carefully considered the memoranda of law that the  
9 attorneys submitted beforehand, and I have also carefully  
10 considered the revised presentence investigation report,  
11 except to the extent that I have expressly not adopted or  
12 modified provisions of the report during the first half of  
13 this or the first part of this proceeding or in comments I'm  
14 about to make. Except to that express extent, I am adopting  
15 all of the report in its entirety as my findings in support of  
16 the sentence that I'm about to impose.

17 One item that needs to be addressed before I turn to the  
18 sentencing arguments and the guidelines is there was an  
19 objection I believe also raised by the defendant to whether  
20 the -- assuming that he was found to be a manager/supervisor  
21 of criminal activity, which I do find, whether it involved  
22 five or more persons. And I want to specifically state on the  
23 record that I do find that indeed it did involve five or more  
24 persons. Specifically they included Mr. Gadson, Mr. Benson,  
25 Ms. Novikov, Ms. Chicha, and L.R.

1           I want to now turn to the question of acceptance of  
2       responsibility under the guidelines. I've already found that  
3       the defendant's position and evidence with respect to his role  
4       was -- is unpersuasive and I've rejected that position. And  
5       then there's an additional question of whether his challenging  
6       the findings in the report associated with his role is  
7       frivolous and so lacking in merit as to disqualify him from  
8       acceptance of responsibility credit in this case, mindful of  
9       the fact that he has pled guilty to all the charges -- not all  
10      the charges but to those that he and the Government have  
11      agreed he would plead to with the Government agreeing to  
12      dismiss other matters.

13           So the question, then, is whether he's -- I should view  
14      him as by having challenged his role as also then  
15      disqualifying him from acceptance of responsibility it seems  
16      to me centers on the fact that what he disputed was his role  
17      in the conspiracy, shifting blame to his co-conspirators,  
18      characterizing himself as a minor player relative to them, and  
19      suggesting that they hold primary responsibility for the  
20      crimes and that indeed Ms. Novikov has lied about him and his  
21      role to benefit someone else.

22           Now, the presentence investigation report reflected  
23      that, because of the criminal conduct in Minnesota, whether  
24      acceptance of responsibility should be given to Mr. Gadson in  
25      this case is necessarily a close call. And so I'm considering

1 the -- in trying to weigh his challenging fundamental points  
2 about the criminal conduct that's at issue here as -- as  
3 sufficiently serious as to disqualify him from acceptance of  
4 responsibility.

5 With that background, I conclude that it does disqualify  
6 him, that he -- in other words, that the record before me  
7 persuades me that he hasn't truthfully accepted responsibility  
8 here. He hasn't truthfully admitted the conduct that can  
9 provide -- that comprise the offense of conviction. There's  
10 substantial ample evidence that he was the top person in this  
11 criminal activity, and he has not accepted that. And so I  
12 cannot in good faith conclude that he has sufficiently taken  
13 responsibility for his actions so as to receive a reduction.  
14 So for that reason I am not going to grant the three-level  
15 reduction.

16 In light of that, the following modifications have to be  
17 made to the sentencing guideline calculations in the report.  
18 Paragraphs 38 and 39 of the revised presentence report are  
19 deleted. Total offense level in Paragraph 40 becomes 27.  
20 Paragraph 84 is revised to reflect the total offense level of  
21 27. For Count 3 of Docket No. 19-CR-122 and Count 1 of Docket  
22 No. 21-CR-163, a total offense level of 27 and a criminal  
23 history category of IV, that results in a sentencing guideline  
24 range of 100 to 125 months. For Docket No. 19-CR-122, Count  
25 4, the guideline sentencing range is the minimum term of

1 imprisonment required by statute of 24 months, and the  
2 aggregate sentencing range is 124 to 149 months.

3 I want to, however, make clear that, although I conclude  
4 that he's not entitled to credit for acceptance of  
5 responsibility under the guidelines, I do feel that he is  
6 entitled to some variant sentence in acknowledgment of the  
7 fact that he's pleaded guilty and certainly to that degree has  
8 largely accepted responsibility in that respect, and by doing  
9 so he has saved the Government from trial in this case, and  
10 furthermore his stated willingness to proceed by video, it  
11 seems to me that those form the basis for a variant sentence  
12 in this case, and they will be reflected in my final  
13 sentencing determination.

14 Now, before I move on to discuss some more  
15 considerations regarding the sentence in this case, I want to  
16 know whether, counsel, you have any question or other comment  
17 with respect to the summary I've provided regarding the  
18 guidelines in view of the rulings I've made regarding  
19 acceptance of responsibility. Attorney Sawyer?

20 MS. SAWYER: No, I think they're correctly  
21 calculated, Your Honor.

22 THE COURT: Thank you. Attorney Rioux?

23 MR. RIOUX: Nothing further, thank you.

24 THE COURT: All right. The nature and circumstances  
25 of the offending conduct in this case has been I think well

1 discussed already in connection with the arguments we've had  
2 up to this point in time. The revised presentence report  
3 reflects that Mr. Gadson helped to organize and led a  
4 conspiracy to engage in fraudulent schemes to borrow money  
5 using stolen IDs. This required the production of bogus  
6 documents, including bogus leases, pay stubs, residential  
7 lease agreements, as I said, in the names of victims, all  
8 which was used to support fraudulent loan applications. This  
9 went on for in excess of a year. It involved extensive travel  
10 and coordination of efforts between Mr. Gadson, Mr. Benson,  
11 and Ms. Novikov. It's notable that Mr. Gadson was receiving  
12 the majority of the proceeds of these frauds and Ms. Benson --  
13 Mr. Benson and Ms. Novikov received less, far less.

14 This type of financial fraudulent criminal conduct is --  
15 can have devastating effects for its victims, that is,  
16 numerous people's credit potentially is ruined, at least for a  
17 time. Of course, the institutions lending the money don't see  
18 repayment. And it's -- the seriousness of the criminal  
19 conduct here is underscored by the fact that it was an ongoing  
20 scheme, not simply one or two isolated incidents. There's  
21 true social harm associated with this type of fraud, and the  
22 sentencing ranges that Mr. Gadson faces reflect that it is  
23 conduct which deserves a serious sentence.

24 Mr. Gadson himself is now age 31. He had a difficult  
25 childhood, no doubt. He's a father of two children now ages

1 eight and two. He has -- does not have a significant  
2 established history of gainful employment but at least in  
3 recent years became involved with a social club as an owner.

4 His criminal history reflects that he has been involved  
5 in encounters with law enforcement pretty much throughout his  
6 adult life. I should say it started actually as a teenager.  
7 And he has a number of charged conduct for which he has not  
8 been convicted, which was either previously dismissed or is  
9 pending, some of which is, not all of which, but some of which  
10 is consistent with a same pattern of criminal behavior that's  
11 charged here, that is, fraudulent behavior, criminal use of  
12 IDs, identity theft, things of that sort. And so it would  
13 appear that -- yes.

14 PROBATION OFFICER: May I approach, Your Honor?

15 THE COURT: You may.

16 (The Court conferred with the probation officer.)

17 THE COURT: Let me be clearer than I have been. I  
18 am not going to consider any charged conduct for which there  
19 are no convictions in my determination of sentence in this  
20 case, and so I am effectively striking my comments with  
21 respect to charged conduct that is pending for which there are  
22 no convictions. It simply won't be considered in my  
23 calculation or my determination of sentence in this case.

24 Rather, let me state that his criminal history up to --  
25 leading up to this offense, the offenses for which he is

1 charged here, reflects that he has trouble and has had trouble  
2 conforming to the requirements of the law during his life.

3 Now, I mentioned that Mr. Gadson has two children, eight  
4 and two. The revised presentence report reflects that he has  
5 been involved as a parent, has been supportive of them.  
6 That's all to his credit. And I also think that what's  
7 promising with respect to the defendant and should be factored  
8 in the sentence is that he has demonstrated during the period  
9 that he's been incarcerated a serious effort to try and  
10 advance himself in a prosocial way. He has completed one of  
11 the longer lists of educational programs I've received in  
12 connection with a sentencing. He's had positions of trust in  
13 the institution. And this all bodes well at least for Mr.  
14 Gadson having the potential to rehabilitate himself and come  
15 out of a period of incarceration and hopefully live a  
16 positive, lawful life.

17 Furthermore, in consideration -- in considering sentence  
18 in this case there's a few other factors that I think are  
19 important. As has been pointed out by Mr. Rioux, Mr. Gadson  
20 has been confined during the pandemic. The conditions of  
21 pretrial incarceration are harsher than usual, with very  
22 limited -- less -- I should say more limited social  
23 opportunities and opportunities for contact with others. I  
24 mentioned earlier that I'm taking into consideration in  
25 arriving at a variant sentence his willingness to proceed by

1 video and the fact that he did accept responsibility in the  
2 sense of pleading guilty in this matter.

3 What is also significant is for me to consider  
4 disparities and unwarranted disparities in sentencing and in  
5 particular in this case the sentence that was previously  
6 imposed on Mr. Benson. I've already discussed the fact that  
7 in connection with the criminal conduct associated with this  
8 conspiracy that's before me today, the defendant was the  
9 leader. He made the most profit and was I think -- can fairly  
10 be characterized as the mind or the mastermind of the effort  
11 that it took to put together the fraudulent scheme by  
12 acquiring fraudulent documents and equipping others to be in a  
13 position to walk into a financial institution and fraudulently  
14 take out loans.

15 So as between him and Mr. Benson, I think that a  
16 disparity in sentence is appropriate for that reason. But  
17 more than that is the fact that Mr. Gadson is before me today  
18 having pled guilty also now to criminal contempt for his  
19 conduct in Minnesota, having been released on bail for this  
20 type of fraudulent conduct and then repeating it, which is  
21 extremely troubling, extraordinarily brazen, and suggests a  
22 complete disregard for the requirements of law. After all,  
23 Mr. Gadson had been released on bail. He had made assurances  
24 that he would comply with the requirements of bail. And so  
25 Mr. Gadson and Mr. Benson's situations are really quite



1 different.

2 Furthermore, in Mr. Gadson's case we have, in addition  
3 to the events in Minnesota, significant violations of  
4 requirements of bail associated with his out-of-state travel,  
5 and that included extensive airline travel to Miami, Los  
6 Angeles, Las Vegas, Puerto Rico, and the like, without  
7 permission of his supervising officer. And that also reflects  
8 poorly on the seriousness with which the defendant takes these  
9 matters and views himself as responsible to follow the rules  
10 that apply to everyone else.

11 The law requires me to consider what is the purpose of  
12 the sentence that's being imposed here and there's a number of  
13 possibilities. There's a few that stand out in this case.

14 The first is to reflect the seriousness of the conduct.  
15 I've already spoken to that here. This was a serious offense;  
16 it went on for some time.

17 Secondly, to provide adequate deterrence and  
18 specifically in this case to provide adequate deterrence to  
19 the defendant, Mr. Gadson. He was not deterred by the  
20 indictment in this case and by a bail order. And so I have to  
21 be -- I have to be concerned regarding his willingness and  
22 ability to comply with the law, not return to criminal  
23 behavior, and the sentence should reflect that and it should  
24 provide a sufficient message to him that if he continues to  
25 think that he can get away with things like this and he's

1 apprehended and he appears before a judge, he'll be facing  
2 very harsh consequences. And so in that respect also the  
3 sentence should protect the public from further crimes by the  
4 defendant.

5 Now, counsel, before I conclude my analysis, is there  
6 any aspect of your arguments that I have not addressed that  
7 you believe needs to be addressed, Attorney Sawyer?

8 MS. SAWYER: I don't believe so, Your Honor, thank  
9 you.

10 THE COURT: Attorney Rioux?

11 MR. RIOUX: No, there is not, thank you.

12 THE COURT: Mr. Gadson, I ask that you stand at this  
13 time. Because there are multiple counts in this case and  
14 because of the requirements of the laws that are involved,  
15 there's several different components that make up the ultimate  
16 sentence in this case and so I have to explain them.

17 First, on Count 3 of Docket No. 19-CR-122 and Count 1 of  
18 Docket No. 21-CR-163, I am proposing a variant sentence  
19 concurrent on both counts of 80 months imprisonment.

20 With respect to Title 18 of the United States Code  
21 Section 3147, I am imposing an additional consecutive sentence  
22 of six months. So that's six months to be served  
23 consecutively to the sentence I've imposed on Count 3 of  
24 19-CR-122 and consecutively to Count 1 of 21-CR-163.

25 On Count 4 of Docket No. 19-CR-122, I'm imposing a

1 24-month sentence that is consecutive to Count 3 of 19-CR-122  
2 and consecutive to Count 1 of 21-CR-163 and consecutive to the  
3 six months pursuant to Title 18 U.S.C. Section 3147. The  
4 resulting aggregate term of imprisonment in this case is 110  
5 months.

6 In addition, I'm imposing a period of supervised release  
7 as follows: On Count 3 of 19-CR-122 and Count 1 of 21-CR-163  
8 concurrent terms of supervised release of four years, and on  
9 Count 4 of 19-CR-122 a term of supervised release of one year  
10 also to be served concurrent with the others. So in effect,  
11 then, or in the end supervised release for a period of four  
12 years.

13 I am not imposing a fine. I conclude at this point in  
14 time that Mr. Gadson doesn't have the means with which to pay  
15 a fine and therefore I'm not ordering one. I am, however,  
16 ordering restitution as is required. The total restitution in  
17 this case is \$256,537. Mr. Gadson receives a credit for  
18 \$13,196, leaving a balance of \$243,341. Finally, I'm  
19 imposing a special assessment in this case of \$100 on each  
20 count, there are three counts, so that's a total of \$300.

21 I want the record to reflect that I have carefully  
22 considered each of the defendant's objections under the  
23 guidelines and to the revised presentence report. With  
24 respect to the guidelines, the record should reflect that,  
25 even if I had accepted an objection that I have not, under the

1 Title 18 sentencing factors the sentence would be the same,  
2 even without consideration of guidelines, because that's a  
3 sentence that I conclude is under all the facts and  
4 circumstances fair and just.

5 Attorney Sawyer, at this point are there any counts that  
6 need to be ordered dismissed?

7 MS. SAWYER: Yes, Your Honor. At this time the  
8 Government would move to dismiss Counts 1, 2, and 5 of  
9 Criminal Case No. 19-122.

10 THE COURT: That motion is granted and they are  
11 ordered dismissed. And before I advise the defendant of his  
12 rights of appeal, first, Attorney Sawyer, is there any aspect  
13 of the sentence I have not addressed that needs to be  
14 addressed?

15 MS. SAWYER: Not that I can think of, Your Honor.

16 THE COURT: Attorney Rioux?

17 MR. RIOUX: No aspect that is unaddressed, thank  
18 you.

19 THE COURT: Thank you.

20 MR. RIOUX: I would ask, Your Honor, if it's time  
21 now, for designation to a facility in the northeast region as  
22 practically close as possible to his family in Boston.

23 THE COURT: I will make that recommendation to the  
24 Bureau of Prisons, that is, that he be incarcerated in the  
25 northeast and as close to the city of Boston as possible so

1       that he will be in close proximity to his family and his  
2       children, which I find will advance his rehabilitation.

3               Mr. Gadson, in this case in your plea agreement you  
4       waived your right to appeal from your guilty plea and any  
5       other aspect of your conviction and from a sentence of  
6       imprisonment that does not exceed 60 months. And so you do  
7       have the right to appeal from the sentence that I've just  
8       imposed. To exercise that right, you're obligated to file a  
9       written notice of appeal with the clerk's office within 14  
10      days. Do you understand?

11             THE DEFENDANT: Yes, Your Honor.

12             THE COURT: If you fail to do that you'll have  
13      waived your right, given it up, to appeal. Do you understand?

14             THE DEFENDANT: Yes.

15             THE COURT: If you can't afford to appeal, you can  
16      make a written request expressing that to the clerk, again  
17      within 14 days, and you'll be permitted to appeal without  
18      paying any required fee. Do you understand?

19             THE DEFENDANT: Yes, Your Honor.

20             THE COURT: All right. Mr. Gadson, in the end, I  
21      think I've said enough at this point regarding the seriousness  
22      of your criminal conduct and why I believe it deserves the  
23      sentence that I've imposed. But I do want to make an  
24      observation, and that is the criminal conduct that you engaged  
25      in required a fair amount of cunning, in other words, an

1 understanding of financial transactions, a degree of  
2 sophistication that suggests to me that you are intelligent  
3 and capable and have promise. Of course, the question is  
4 whether you're going to direct your energies into something  
5 which is positive and prosocial and lawful or not. But I  
6 would be remiss if I didn't comment that I see you as someone  
7 with great promise.

8 You're still relatively young. You've got two  
9 relatively young children. You'll serve this time and you'll  
10 come out. And the real issue of course is, well, what are you  
11 going to do with yourself when you do come out, what are you  
12 going to make of yourself. You've obviously got a community  
13 of people that care about you. You've got a lot to live for.

14 And so I would like to I guess leave you with the idea  
15 that for justice to actually be served in this case in the  
16 end, to be completely served, it -- it requires that you now  
17 do something good with your life and not something bad, that  
18 you do something which not only makes the people that care  
19 about you proud of you but also makes your children proud of  
20 you. They are going to be adults someday, and they are going  
21 to have to make sense of what happened with their dad. How  
22 did he get into that trouble? What came of it? And of course  
23 that story is not complete. In some ways it's just beginning.  
24 You have the potential to truly inspire your kids by your  
25 example and the community. And I would like to suggest to you

1       that if you can look back on this experience, let's say 10, 20  
2       years down the road and be able to say, yes, I did turn myself  
3       around, I did good things with my life, I didn't take  
4       advantage of other people, and your kids are able to have that  
5       same message from your experience, then there'll be real  
6       justice here.

7               That's what I hope for you. I see that potential in  
8       you. I hope you see that potential as well. I hope that  
9       you'll use the time that you're incarcerated, as you have to  
10      some degree already, to advance yourself, to equip yourself to  
11      live a life -- a life of meaning, a life of purpose, a life  
12      that's good. That's my hope for you.

13             Attorney Sawyer, is there anything else we haven't  
14      addressed that needs to be addressed today?

15             MS. SAWYER: Yes, Your Honor, the conditions of  
16      supervised release.

17             THE COURT: Thank you.

18             MS. SAWYER: The mandatory, standard, and then the  
19      special conditions we would recommend that the Court impose.

20             THE COURT: Thank you very much. Yes, I need to  
21      address those.

22             Attorney Rioux, have you reviewed with Mr. Gadson all of  
23      the special, mandatory, and standard conditions of supervised  
24      release set forth in the revised presentence report?

25             MR. RIOUX: Yes, Your Honor.

1 THE COURT: Are you satisfied he understands them?

2 MR. RIOUX: I am.

3 THE COURT: Mr. Gadson, you've reviewed all the  
4 conditions with your attorney?

5 THE DEFENDANT: Yes, I have.

6 THE COURT: And you feel that you understand them?

7 THE DEFENDANT: I do.

8 THE COURT: Is there any objection to any of them?

9 THE DEFENDANT: No, thank you.

10 THE COURT: All right. I am ordering all of the  
11 conditions that were set forth in the report. Officer  
12 Belanger?

13 PROBATION OFFICER: Yes, Your Honor, did you also  
14 want to -- I understand that you made your order on the  
15 restitution, but after Paragraphs 56 on Page 34 of the PSR did  
16 you want to order the restitution consistent with that as it  
17 applies to each individual victim, the priority, and the joint  
18 and several with Novikov and Benson?

19 THE COURT: Which paragraph is this?

20 PROBATION OFFICER: 96, it starts on Page 34 and it  
21 goes to Page 36.

22 THE COURT: The restitution as I've announced it in  
23 this case will be in keeping with the delineation of  
24 restitution in Paragraph 96 of the revised presentence  
25 investigation report Pages 34 to 36.



1           Finally, Attorney Sawyer, anything else?

2           MS. SAWYER: Not from the Government, Your Honor.

3           THE COURT: All right. Attorney Rioux, anything  
4 else?

5           MR. RIOUX: No, thank you.

6           THE COURT: All right. I want to thank the  
7 attorneys for all of their efforts today, Probation Officer  
8 Belanger as well for her work in this matter. It was a fairly  
9 complex matter. I think it's important -- I think it's always  
10 very important to recognize that when someone is sentenced  
11 this is a very important event in Mr. Gadson's life, and so I  
12 want to acknowledge those of you who have traveled here to be  
13 here to support him, that that was a very important thing to  
14 do. Mr. Gadson, good luck to you.

15           THE DEFENDANT: Thank you.

16           THE COURT: Court is now adjourned.

17                       (Time noted: 1:32 p.m.)  
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C E R T I F I C A T I O N

I, Lori D. Dunbar, Registered Merit Reporter, Certified Realtime Reporter, and Official Court Reporter for the United States District Court, District of Maine, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated: August 24, 2022

/s/ Lori D. Dunbar

Official Court Reporter